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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090  
**U.S. Citizenship  
and Immigration  
Services**



74

[Redacted]

Date:

Office:

[Redacted]

FILE:

[Redacted]

AUG 22 2011  
IN RE:

[Redacted]

APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Acting District Director, [REDACTED] denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of [REDACTED] who, on October 31, 2004, appeared at the [REDACTED] port of entry. The applicant made an oral false claim to U.S. citizenship by stating that she was born in [REDACTED]. When documentation was requested, the applicant presented a U.S. Birth Certificate bearing the name [REDACTED]. The applicant was placed into secondary inspection. The applicant then admitted that she was not the true owner of the document, which belonged to her cousin; she had no claim to U.S. citizenship even though she had resided in the United States since the age of six months; she knew that it was illegal to present the document; and she did not possess valid documentation to enter the United States. The applicant was found to be inadmissible pursuant to section 212(a)(7)(a)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(7)(A)(i)(I), for being an immigrant without valid documentation. On October 31, 2004, the applicant was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225(b)(1).

On November 17, 2004, the applicant filed the Form I-212 indicating that she resided in [REDACTED]. The applicant is inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i). She seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii) in order to reside in the United States with her lawful permanent resident parents.

The acting district director determined that the applicant is inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii), and that there is no waiver available for this ground of inadmissibility. The acting district director denied the Form I-212 accordingly. *See Acting District Director's Decision*, dated December 21, 2006.

On appeal, counsel contends that the applicant is seeking a waiver under section 212(d) of the Act in order to obtain a temporary nonimmigrant visa and that the applicant is unable to rebut the evidence against her because she had not been provided with a copy of the documentation used to support the denial of her application.<sup>1</sup> *See Counsel's Letter*. In support of his contentions, counsel submits only the referenced letter. The entire record was reviewed in rendering a decision in this case.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa,

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<sup>1</sup> The applicant has an approved Petition for Alien Relative (Form I-130) and, combined with her extensive residence in the United States, this indicates that the applicant has immigrant and not nonimmigrant intent; therefore, the AAO finds the applicant to be an immigrant. Additionally, the AAO notes that the applicant was served with documentation informing her that she was being removed from the United States on October 31, 2004, including a copy of her statement. If the applicant has lost this documentation she may request a copy of it by filing a Freedom of Information Act Request (FOIA). Counsel has failed to make a proper inquiry in order to obtain such documentation and the applicant has been provided ample time to rebut the evidence against her on appeal.

other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

(ii) Falsely claiming citizenship. –

1. In General –

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act . . . is inadmissible.

2. Exception-

In the case of an alien making a representation described in subclause (I), if each natural parents of the alien . . . is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

As of September 30, 1996, the date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub.L. 104-208, aliens making false claims to U.S. citizenship are statutorily ineligible for a waiver of inadmissibility. *See* sections 212(a)(6)(C)(ii) and (iii) of the Act, 8 U.S.C. §§ 1182(a)(6)(C)(ii) and 1182 (a)(6)(C)(iii). Therefore, if an alien makes a false claim to U.S. citizenship on or after September 30, 1996, the alien is subject to a permanent ground of inadmissibility.

The AAO finds that the applicant, by making a false claim to U.S. citizenship on October 31, 2004, is inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act. The AAO also finds that the applicant is ineligible for the exception to the inadmissibility grounds under section 212(a)(6)(C)(ii)(II) of the Act.

*Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg. Comm. 1964) held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application.

The applicant is inadmissible under the provisions of section 212(a)(6)(C)(ii) of the Act and no waiver is available. Therefore, no purpose would be served in adjudicating the application to reapply

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for admission into the United States under section 212(a)(9)(A)(iii) of the Act. As the applicant is statutorily inadmissible to the United States, the appeal will be dismissed as a matter of discretion.

**ORDER:** The appeal is dismissed. The application remains denied.